November 18, 2002. Specifically, the Examiner has taken the position that the referenced Amendment did not specifically point out how language in the claims defines the present invention over the cited and applied prior art. In addition, the Examiner noted that the official records in the U.S. Patent and Trademark Office do not show an abandonment of two particular prior U.S. Patent Applications bearing Serial Numbers 10/156,374 and 10/156,398. Further, the Examiner continued an objection relating to documents which are already present in the file history of this case, referred to as documents A and B, suggesting that these documents were not part of the file history in a prior-filed U.S. Patent Application.

In response to this new communication from the Examiner, applicants herewith submit this Supplemental Amendment which is accompanied by copies of specific Express Abandonments of the two, prior-filed, above-identified patent applications, which Abandonments have now been filed in the U.S. Patent and Trademark Office. This evidence of Express Abandonment should thus fully address the Examiner's provisional application of the judicially created doctrine of obviousness - type double patenting.

With respect to documents A and B, applicants are somewhat mystified by the Examiner's comments regarding these documents which comments state that these documents were not part of a prior-filed patent application. These documents were indeed part of a prior-filed patent application, and namely, the U.S. Provisional Application filed on April 4, 2001 from which the present patent application springs, and to which it claims priority. Given the fact that these two documents were very definitely part of that prior provisional application, it is believed that they are truly already a part officially of the record in this case. Accordingly, if, given the Examiner's

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recognition now that these documents were indeed filed as a part of a priority-claimed patent application, and if the Examiner still has objections to their presence in the file of this case, the Examiner is invited to call applicants' attorney of record, Jon M. Dickinson, at 503-504-2271, to hold a discussion about just how to deal with these two documents.

With respect to pointing out specifically how new claims 4, 5, and 6 differ from the cited and applied art, applicants had thought that, beginning at page 12 in the prior-filed Amendment in this case, and specifically beginning with the paragraph which is at the bottom of that page, they had quite specifically pointed out structural features of the claimed invention which were not present in the cited art. Nonetheless, applicants now hereinbelow, specifically point out features set forth in claims 4, 5, and 6 which are not present in any form in any of the cited and applied references.

Claim 4 distinguishes from the art of record in its positive recitation of an insole combination structure (a) in which one of the two recited layers is structurally "an acceleration-rate-sensitive" material, and (b) which contains a cooperative structural association between a defined-characteristic (wicking and fibre-load-distributing) fabric layer, and an acceleration-rate-sensitive layer. No art of record discloses such an acceleration-rate-sensitive layer in any context, and therefore also does not disclose in any context a combination of such a layer with a fabric layer as defined in Claim 4.

Claims 5 and 6 which define applicants' invention from somewhat different points of view in relation to each other, as well as in relation to claim 4, also distinguish over the cited art of record by their recitations, effectively, of these same two structural features, namely, the

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presence of an acceleration-rate-sensitive layer, and the presence of a combination with this layer of the recited fabric layer.

Given the above statements which are now presented in the Remarks herein, applicants believe that the Examiner's request that applicants precisely point out how structure set forth in the claims in this case distinguish over the art is met. Here, too, if the Examiner still believes that sufficient specificity in this regard has not been provided, the Examiner is encouraged to call applicants' attorney, Jon M. Dickinson, at 503-504-2271.

Accordingly, and by now coupling this Supplemental Amendment with the prior-filed Amendment, applicants submit that all matters raised in the Examiner's earlier action have been directly addressed, and that all claims now present in the application are distinguishable over the art of record, and are therefore patentable. Thus, favorable reconsideration of this application, and allowance of all claims therein, are respectfully solicited.

In light of the foregoing amendment and remarks, the Examiner is respectfully requested to reconsider the rejections and objections state in the Office action, and pass the application to allowance.

Provisional Request for Extension of Time in which to Respond

This Supplemental Response is filed within the Three-month shortened statutory period from the original Office Action date of February 18, 2003, however, if for any reason this Response is deemed to be untimely, Applicants provisionally request and extension of time in which to respond. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any over-payment to Account No. 22-0258.

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Customer Number

23855
PATENT TRADEMARK OFFICE

Respectfully Submitted,

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"Express Mail" Mailing Label No. EV207894119US
Date of Deposit - May 12, 2003

I hereby certify that the attached Supplement Response under 37 C.F.R. § 1.111 and Provisional Request for Extension of Time in which to Respond is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to:

MS Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Robert D. Varitz

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